

REMARKS (37 CFR 1.111)

Applicant has considered all points made by the Examiner in the Office Action.

Applicant amended the claims to clarify the structure which the Applicant believes distinguishes the present invention over the cited reference, to clarify the function of the claimed invention, and to clarify the limitations within the claims drawn to such a structure. Applicant added new claims that Applicant believes distinguishes the present invention over the cited reference. Applicant believes the amended and new claims are supported by the specification.

35 U.S.C. § 102 Rejection

Claims 10-42 were rejected under 35 U.S.C. § 102(b) as being anticipated by Garwick, U.S. Reg. No. 482,633. Applicant respectfully traverses the rejection.

Applicant notes that in multiple instances in the office action, the Examiner argues that Applicant did not discuss the "criticality" of an element of Applicant's invention. Without citing any authority, the Examiner uses this alleged non-discussion as a basis for rejecting Applicant's claims. However, the patent laws do not require a discussion of criticality, and a criticality discussion is not a valid basis for rejection. Therefore, all rejections due to Examiner's "criticality" argument should be withdrawn.

Additionally, there are several issues in regards to the claim limitations and invention characteristics in which Applicant disagrees with the Examiner's position. Each of these issues concern several of the claim rejections. They will be discussed below and referenced in the specific claim discussions.

a. "Hook" v. "Eye": The Examiner has ignored the clear structural and functional differences between a "hook" and an "eye." While it is correct to say that both are curved and can be used for holding, the similarity ends there. A hook is a curved holding device that has an

opening in its diameter that allows the user to drop the hook over a support. A eye has no opening around its diameter, and the support must be threaded through eye in order for it to function. This difference is specifically illustrated in the definitions previously presented by Applicant, which included:

“hook and eye: a 2-part fastening device (as on a garment or a door) consisting of a metal hook that catches over a bar or into a loop” (Merriam – Webster OnLine Dictionary, located at www.m-w.com)

Note that the “hook” and the “eye” are referred to as two different parts of the fastening device – a hook and a loop.

Further, Garwick (No. 482,633, upon which the Examiner bases the rejections) recognizes the difference in a hook and eye as well. Garwick illustrates in figures 1 and 2 that (E) in a fully closed loop, or “eye,” and Garwick calls (E) an “eye” in the specification. Conversely, Garwick refers to the curved, but non-closed, hooks (a) as “hooks.” Were Garwick to have replaced the eye (E) with a hook, and the hooks (a) with eyes, the structure and function of the Garwick invention would have been vastly different. For example, the Garwick hooks (a), if now eyes, would not hook into the carcass of the animal and would not hold the animal at all. Clearly, Garwick recognized the difference between a hook and eye, and intentionally and carefully chose to illustrate and define (E) as an “eye,” and the (a)’s as “hooks.”

In regard to Applicant’s hook, if it were an eye, Applicant’s invention would be structurally and functionally different. As stated above, the hook allows for attachment over the support, while the support must be threaded through the eye in order to function. Therefore, a hook can be used often when an eye cannot. For example, a hook can be placed directly over the limb of a tree where it will support the weight of the animal, while the limb’s branches would

make sliding an eye up the limb to the same point impossible. Similarly, a hook can be directly placed over and engaged with a support that is braced on two ends -- such as a rope or chain -- in order to hold the weight of the animal, while for an eye the same support must be disconnected and threaded through the eye. However, if the support cannot be disconnected then the eye is unuseable, while the hook can still be employed. Also, if the support is larger in diameter, the the hook may be driven into the support itself to hold the gambrel, such as into a large branch. Such utility is impossible with an eye.

b. **Two Cross Member Plates v. One Cross Member Plate:** Garwick describes and claims a single plated upper cross member (referred to as a "cross-head" in Garwick), while the Applicant describes and claims a double plated upper cross member. The double cross-member adds structure and function that is not disclosed in Garwick. Specifically, the double plate provides additional strength for holding large carcasses. It also better supports the pivots (illustrated but not labeled in Garwick) by providing support on both ends of the pivots and acting as "stops" that keep the prong arms (simply "arms" (A) in Garwick) from sliding off of the pivot ends. The double plates also better restrict torsion or twist of the upper cross member when a heavy animal is placed on the gambrel.

The Examiner argues that the single plate of Garwick is the same as Applicant's double plates because the single plate has a thickness and therefore each side is a plate. This is simply illogical -- two sides of the same plate are not the same as two plates.

The Examiner argues that the Garwick pivot "...extends through a first plate and is operably connected to the upper cross member somewhere between the first and second plates, thus integrally connected to the second plate." However, this is a baseless assumption on the part of the Examiner given that nothing in the Garwick patent gives any indication that such an

interpretation is correct. Furthermore, even if correct, the Examiner's interpretation does not read on Applicant's invention. Applicant discloses a gambrel where the two upper cross member plates are attached to the opposing ends of the prong arm pivots, with the prong arms pivotally attached to the pivots between the two plates. Further illustrating the double plates, and apparently ignored by the Examiner, Applicant's upper cross member cylinder is connected to the upper cross member between the plates. Neither of these characteristics are disclosed or claimed by Garwick.

c. **Collars with Notches:** This characteristic of Applicant's invention allows the collars to be longer, adding support and strength, while the cut-outs let the prong-arms extend outward more fully. No such structure is described nor claimed in Garwick, and it is ignored by the Examiner.

d. **Angled Prongs:** Garwick does not disclose an angled prong attached to the prong arm. The Examiner argues that Garwick's hook is circular and "...scribes through many angles relative to the prong arm, the Examiner, as such, believes that the angle can be between 20 degrees and 85 degrees, relative to the prong arm." Again, the Examiner is assuming characteristics that are in no way described in Garwick. The Examiner is also ignoring the common definition and meaning of an "angle." The hook attached to the arm does not contain "many angles." An angle is defined as, "the shape made by two straight lines meeting at a common point..." (Webster's New World College Dictionary, 4th Ed., 2002, p.54) Even if an angle were assumed, which Applicant does not agree it should, the logical point to determine the angle is at the tip of the hook, which appears to be at approximately 180 degrees (or in line with) relative to the arm.

e. **Tapered Prongs:** Applicant specifically describes and claims a prong with a tapered end. In contrast, Garwick's specification text has absolutely no reference to a tapered end. However, the Examiner argues that Garwick's hook (a) "resembles a prong." Applicant disagrees and believes Garwick's hook looks like a hook. A prong is a generally straight, pointed piece. Even assuming the hook is a prong, the Examiner has ignored that Applicant claims a prong with a "tapered end." Garwick's figures show a hook with a blunt end. A blunt hook is not a prong with a tapered end, and is not the proper basis for rejection.

f. **Lower Cross Member:** Applicant describes and claims a lower cross member that extends outwardly at generally right angles from the central bar, and where the upper cross member cylinder slides along the central bar between to the central bar's second end where the lower cross member is attached. This is not disclosed or claimed in Garwick. In contrast, Garwick shows a gambrel with a triangular yoke-piece. Its yoke-piece is made up of three parts – two support members that are attached to the stem at an angle, and up to which the aperture of the cross-head slides, and one cross member that extends between to distal ends of the two support members. Garwick's eyes of the yoke-piece are attached at the end of the cross member. By having a lower cross member that extends outwardly at generally right angles from the central bar, and up to which the upper cross member cylinder slides, the prong arms are allowed to extend more fully outwardly, than in the disclosure of Garwick.

Garwick does not anticipate each of the elements of any of the active claims. In each discussion of a specific claim below, Applicant intends that the relevant arguments above be incorporated by reference. In each case, Garwick does not anticipate Applicant's claim. In regard to the specific claims: